



BOSTON CONNECTICUT FLORIDA NEW JERSEY NEW YORK PROVIDENCE WASHINGTON, DC

JONATHAN S. ZELIG
Attorney at Law

One Federal Street, 29th Floor
Boston, MA 02110
T: (617) 345-4601 F: (617) 892-4236
jzelig@daypitney.com

October 30, 2024

VIA E-MAIL

The Honorable Loma G. Schofield
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007
(202) 805-0288

Re: Match Group, LLC v. Beazley Underwriting, Ltd., No. 1:22-cv-4629-LGS

Dear Judge Schofield:

On behalf of defendant Beazley Underwriting, Ltd. (“Beazley”), I write to (i) provide the Court with an update on the exhaustion issue (*see, e.g.*, ECF Nos. 88, 90, 91, 96), and (ii) inform the Court that the parties have agreed to dismiss this case.

Over the past six weeks, plaintiff Match Group, LLC (“Match”) and Beazley have exchanged information and frequently met and conferred regarding the exhaustion issue. As a result of those efforts, and upon receipt of the declaration attached as Exhibit A, and in light of Beazley’s position that the underlying claim was reported late, Match agrees to dismiss its claims in this case with prejudice. Accordingly, the parties will file a joint stipulation of dismissal of Match’s claims with prejudice. Beazley will separately file a notice of voluntary dismissal of its counterclaim for declaratory judgment.

We thank the Court for its consideration of this matter.

Respectfully Submitted,

A handwritten signature in blue ink that reads 'Jonathan S. Zelig'.

Jonathan S. Zelig



October 30, 2024

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Attachment

cc: Counsel of Record (*via* CM/ECF)

Exhibit A

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MATCH GROUP, LLC,

Plaintiff,

Case No.: 1:22-cv-04629-LGS

v.

BEAZLEY UNDERWRITING LIMITED,

Defendant.

DECLARATION OF MARK SINGER

I, Mark Singer, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a Focus Group Leader – Cyber Claims, at Beazley Group (“Beazley”), and reside in the United Kingdom. I have personal familiarity with the matters set forth below.

2. Beazley-affiliated syndicates at Lloyd’s of London issued AFB Media Tech Policy No. W11DBA150501 (“Policy”) to IAC/InterActiveCorp (“IAC”), the “Named Insured” under the Policy. The Policy’s “Policy Period” is August 20, 2015, to August 20, 2016, both dates at 12:01 a.m. ET.

3. Plaintiff Match Group, LLC (“Match”) is part of the “Insured Organization” under the Policy.

4. Match qualifies as an “Insured” under the Policy.

5. In the First Amended Complaint (ECF No. 26), Match seeks coverage under the Policy for a claim made against Match by John Mellesmoen (“Mellesmoen Claim”).

6. By letter dated March 31, 2017, Beazley denied coverage for the Mellesmoen Claim under the Policy, in short, for the sole reason that the claim was first made against Match during the Policy Period but not reported to Beazley before the expiration of the Policy Period.

(*See, e.g.*, ECF No. 34 at 9.) Specifically, the Policy Period expired at 12:01 a.m. on Saturday, August 20, 2016, yet the claim was reported to Beazley on Monday, August 22, 2016, at 8:42 a.m. (*See id.*).

7. The Policy is subject to a \$15,000,000 “Aggregate Limit of Liability.”

8. The Policy provides that the Aggregate Limit of Liability is the insurer’s “combined total limit of liability for all Loss payable under this Policy.”

9. The Policy defines “Loss” as “Damages, Claims Expenses, Privacy Notification Costs and Penalties.”

10. The Policy provides that “[n]either the inclusion of more than one Insured under this Policy, nor the making of Claims by more than one person or entity shall increase the Limit of Liability.”

11. The Policy provides that the insurer “shall not be obligated to pay any Loss, or to undertake or continue defense of any suit or proceeding, after the Policy Aggregate Limit of Liability . . . has been exhausted by payment of Loss.” The Policy further provides that “[t]he Limit of Liability . . . shall be reduced and may be completely exhausted by payment of Claims Expenses.”

12. Beazley-affiliated syndicates at Lloyd’s of London have paid IAC a total of \$15,000,000 under the Policy to reimburse IAC for covered Claims Expenses incurred in connection with a separate claim unrelated to the Mellesmoen Claim (the “Unrelated Claim”). Those payments were made in three separate installments: \$10,900,163.81 on January 12, 2024, \$875,443.02 on June 13, 2024, and \$3,224,393.17 on October 11, 2024. Prior to January 12, 2024, the full limits of the Policy were available for payment of other covered claims.

13. The payment of a total of \$15,000,000 to IAC in 2024 in order to reimburse IAC for Claims Expenses incurred in connection with the Unrelated Claim eroded and exhausted the Aggregate Limit of Liability under the Policy.

14. Beazley and IAC have entered into a formal agreement in which both parties agreed that the payment of a total of \$15,000,000 for Claims Expenses incurred in connection with the Unrelated Claim eroded and exhausted the Aggregate Limit of Liability of the Policy.

15. Beazley-affiliated syndicates at Lloyd's of London first informed Match of the payments to IAC, and the erosion and exhaustion of Aggregate Limit of Liability under the Policy, on September 18, 2024.

16. Attached to this Declaration as Exhibit 1 is a true and correct copy of a loss run generated by Beazley on October 24, 2024, which demonstrates payment to IAC of the total amount of \$15,000,000 under the Policy. The Loss Run has been redacted to withhold the names of "Claimants" other than the one in the Mellesmoen Claim.

17. Because the Policy is now exhausted, the Policy can provide no more coverage for any claims, including the Mellesmoen Claim (which, in any event, Beazley contends is not covered because it was not reported to Beazley during the Policy Period).

* * *

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 30th day of October 2024.

Mark Singer

Mark Singer
Focus Group Leader – Cyber Claims
Beazley Group

Exhibit 1

IAC InterActiveCorp

Media Tech Package

Beazley Loss Runs as of 24-Oct-24

All figures shown in US Dollars (USD)										
Claim Number	Policy Number	Claim Status	Inception Date	Expiration Date	Insured	Claimant	Date Claim Made	Claim Or Circumstance	Indemnity Paid	Defense Paid
BEAZL100002857883	W11DBA150501	Closed	20-Aug-15	20-Aug-16	IAC InterActiveCorp		3-Dec-15	Claim	0	0
BEAZL100002870469	W11DBA150501	Closed	20-Aug-15	20-Aug-16	IAC InterActiveCorp		16-May-16	Claim	0	0
BEAZL100002871685	W11DBA150501	Closed	20-Aug-15	20-Aug-16	IAC InterActiveCorp		3-Jun-16	Claim	0	0
BEAZL100002872361	W11DBA150501	Closed	20-Aug-15	20-Aug-16	IAC InterActiveCorp		27-May-16	Claim	0	0
BEAZL100002873389	W11DBA150501	Closed	20-Aug-15	20-Aug-16	IAC InterActiveCorp		7-Jun-16	Claim	0	0
BEAZL100002873669	W11DBA150501	Closed	20-Aug-15	20-Aug-16	IAC InterActiveCorp		17-Jun-16	Claim	0	0
BEAZL100002875025	W11DBA150501	Closed	20-Aug-15	20-Aug-16	IAC InterActiveCorp		16-Jun-16	Claim	0	0
BEAZL100002878086	W11DBA150501	Open	20-Aug-15	20-Aug-16	IAC InterActiveCorp	John Mellesmoen	16-Feb-16	Claim	0	0
BEAZL100005313075	W11DBA150501	Open	20-Aug-15	20-Aug-16	IAC InterActiveCorp		16-Jul-16	Claim	0	15,000,000

